

Congress, December 1805, Bill for Establishing Naval Militia, from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

A BILL FOR ESTABLISHING A NAVAL MILITIA¹

¹ A first draft of this bill, dated Sept 2d. was as follows:

“ A Bill for Establishing a Naval Militia.

“Be it enacted etc. that every free able-bodied, white male citizen of the U. S. of the age of 18. years & under the age of 45. years, whose principal occupation is on the high sea or on the tide-waters within the U. S. shall be of the militia for the naval service of the U S. and shall be exempt from the services of the land Militia.

“The persons so to constitute the said naval militia shall be enrolled in the several ports, harbours, or towns thereto adjacent, to which they belong or are most convenient by their names, ages, places of birth & abode, & personal descriptions, with the date of their enrollment & shall be formed into companies each to be commanded by a Lieutenant to be appointed by the authority of the state to which such company belongs.

“It shall be the duty of the Lieut of each port, harbour, or town thereto adjacent to enrol in a book to be kept by him for that purpose all persons who by this act are made naval militiamen, belonging to his said port or harbour, or within the limits assigned as most convenient to the same, registering in a distinct page or part of his book those of every different year of age from 45. down to 18 and whenever a person enrolled in one port of the U S. shall remove to another, the enrolling officer of the latter port shall immediately

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enter him on his book, noting the date & place of his former enrollment, in addition to the other circumstances before prescribed.

“In deciding on the ages of persons to be enrolled, the officer shall make up his judgment from the information of the party himself, from such other information as he can obtain & from his own inspection.

“Every person enrolled shall be entitled to receive from the officer possessing the book of enrollment, an authenticated transcript from the same of the entry respecting himself on payment of 25 cents, & to have the same renewed on the same condition from time to time when lost or destroyed, which shall exempt him from discipline duties at the port of his former enrollment, and from the duties of the land militia; & shall be considered otherwise as instead of the certificate of citizenship heretofore given by the Collectors of the Customs; which certificates shall here-after cease to be given.

“Every enrolling officer shall, on, or immediately after the 1st day of October in every year make a return of his roll to the Secretary of the Navy of the U S. according to it's actual state as affected since the last return by age, discharge, death removal, new enrollments or otherwise.

“It shall be the duty of the sd. officers, on 6 days of every year to discipline the men under their command who may be within their limits at the time to the use of artillery or the manœuvring of gun-boats or other armed vessels assigned to the defence of their port or confided to their use, and all acts of disobedience or failure in duty herein, in either officers or men, shall be liable to the same pains, penalties & coercion & to trial by a court martial consisting of three commissioned officers at least of the Naval Militia as are provided in the corresponding cases, by the laws for the government of the land Militia of the U S.

“In cases of insurrection, of opposition to the civil authority, or of sudden attack by an enemy happening in any port, harbour or town on the tide-waters, or on the coasts in their vicinities, all persons then & there being who make a part of the sd. Naval Militia, whether

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of the same or of any other place, shall be liable to be called on to do duty with artillery or on board any armed vessels, for the special occasion of quelling the insurrection, enforcing obedience to the civil authority or resisting the attack. And in time of war, either actual or imminent, all under [35] years of age, wheresoever they shall happen to be within the jurisdiction of the U S. shall be liable to be called on in such proportion of their whole number as circumstances may require, to perform tours of duty not exceeding one year in any [two] on board of any of the public armed vessels of the US. in which the sd. militia officers, in subordination to the regular officers of the US. of equal or superior grade shall have the immediate command & care of them. And if any person so called on shall refuse or unnecessarily delay to enter on duty he shall be arrested as a deserter either by the civil or military authority, delivered to the proper military officer & either punished as a deserter or compelled to perform his tour of duty: but any person so called on may commute his personal service by tendering an able bodied free white man a citizen of the US. fit for the service in the Judgment of the officer who is to command him, and willing to engage therein. And all persons while engaged in the performance of a tour of duty, shall have the pay & rations allowed in the navy of the US. & be subject to the rules & regulations and articles provided for the government of the same.”

Concerning this, and the following bills, Jefferson wrote:

“November 3, 1805.

“Th. J. to Mr. Gallatin.

“I wish for an *à peu près* of the number of seamen we call ours. I suppose the best way of estimating will be by our tonnage, including coasters, bay and river craft, and everything employed on the tide-waters. Can you assist me with the materials for such an estimate? It is of some importance for my bill for a naval militia; that and the one for the land militia I will send you for consideration as soon as you can assist me as above.”

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These notes of Jefferson seem to be the basis of the bills:

“November 1805.

“The best ground for estimating the number of seamen of the United States to be enrolled under the Act for establishing a naval militia is the tonnage of our vessels. The latest return of tonnage states it to have been on the 31st. of December, 1803, as follows.

tons

Registered tonnage employed in foreign trade 585,909

In the whale-fisheries, 12,389

Cod-fisheries, 50,969

63,358

In the coasting trade, 267,787

917,054

“We are supposed to employ usually in navigating our vessels about 6 men to every 100 tons. But allowing for those who are not free white citizens within the military age, we may estimate 5 to the 100 tons. 5

45,852

To these should be added the seamen then in our navy, and those employed on the tide-waters within the United States, which we may safely state as making the whole number amount to 50,000

“ *An Estimate of the Land Militia of the United States.*

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"The census of 1800 gave us of free white males of

16 and under 26 384,554

of 26 and under 45 423,836

Our military age excluding those under 18, we must from the number 384,554

deduct those in their 17th and 18th years, which, by Buffon's tables, will be 80,405

Remain of the age of 18 and under 45, to wit, the minor and junior classes, 304,149

"Our census of 1790 and 1800 having showed our increase to be in a geometrical ratio of 3# per cent. per annum, the increase from 1800 to 1805 is 54,184

leaving our whole number of free white males from 18 to 26 in 1805 358,333

From these are to be deducted the naval militia-men, but far the greater part of those employed in the foreign trade and whale-fisheries being always absent, it is believed that not half of them were included in the census. Those supposed included, then, are 35,000, of which, according to Buffon, those of 18 and under 26 will be only 11,711

leaving of free white landsmen from 18 to 26 in 1805 346,622

From these are still to be deducted those not able-bodied: suppose them 1 to 10, 34,662

leaving of free, white, able-bodied landsmen of 18 and under 26 311,960

"To find what proportions of these will be of the minor and what of the junior class, we are to inquire, of 311,960 persons of 18 and under 26 years of age, how many will there be of each different year of age? Buffon's tables resolve them as follows: As 84,589 in Buffon

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from 18 to 26: to 311,960 in the United States of the same age: so are 11,014 in Buffon in their 19th year: to x, the number in the United States in their 19th year; then

$x = \frac{311,960}{84,589} \times 11,014 = 3.69 \times 11,014$. Consequently those in their

Buffon's Nos. in U. S.

19th year will be $3.69 \times 11,014 = 40,619$

20th “ “ “ $\times 10,919 = 42,267$

21st “ “ “ $\times 10,768 = 39,712$

= 120,598 of the minor class

22d year will be $3.69 \times 10,675 = 39,368$

23d “ “ “ $\times 10,514 = 38,775$

24th “ “ “ $\times 10,380 = 38,281$

25th “ “ “ $\times 10,259 = 37,834$

26th “ “ “ $\times 10,060 = \underline{37,100}$

311,956

= 191,358 of the 311,956 junior class

“To obtain the respective numbers of the middle and senior classes, the census of 1800 gave for both 423,836

Add the increase from 1800 to 1805, 75,506

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499,342

from which are to be deducted seamen from 26 to 45, 23,289

476,053

deduct those also not able-bodied, suppose 1 in 10, 47,605

leaves free, white, able-bodied landsmen from 26 to 45, 428,448

“Buffon's tables make the numbers of 26 and under 35 = 84,182, and those of 35 and under 45 = 84,018. These are so nearly equal that we may consider the middle class one-half, to wit, 214,224

and the senior class one half, to wit 214,224

Recapitulation.

Naval militia, 50,000

Land militia, minor class, 120,598

junior “ 191,358

middle “ 214,224

senior “ 214,224 740,404

790,404

On Dec. 31, 1805, Jefferson wrote to Dearborn:

“Considering that the important thing is to get the militia classes so that we may get at the young for a year's service at a time, and that training may be supplied after they are called

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out, I think we may give up every part of the bill which respects training & arming. Let us once get possession of the principle, & future Congresses will train & arm. In this way we get rid of all those enemies to the bill to whom different details would be objectionable. I send you the bill thus modified, & I have thrown in a few words in the clause beginning with the words 'The junior class shall be liable &c.' in order that the law may execute itself without waiting for any legislature. Will you be so good as to communicate it to General Varnum & Mr. Bidwell? The sooner the better."

[Dec. 1805.]

Be it enacted etc. that every free, able-bodied, white, male citizen, of the U. S. of 18. years and under 45. whose principal occupation is on the high sea, or on the tide-waters within the U. S. shall be of the militia for the naval service of the U. S. and shall be exempt from the services of the land militia.

The persons so to constitute the said naval militia shall be enrolled in the several ports or harbours, or the towns or country thereto adjacent, to which they belong or are most convenient, by their names, the dates & places of their births, their abodes & personal descriptions: which enrollment shall be made by such person as the Pres. of the U. S. shall authorize in each place in a book to be kept by him for that purpose, without delay as to those now within the descriptions of this act, and from time to time as to others, who shall thereafter become so, always registering the date of the enrolment, and placing in a distinct page or part of the book those born within the limits of one & the same year of the Christian aera. And whenever a person enrolled in one part of the U S. shall remove to another, the enrolling officer of the latter port shall immediately enter his name on his book, noting the date & place of his former enrolment, in addition to the other circumstances before prescribed, and all questions between the enrolling officers of the land and Naval Militia, whether a citizen belongs really to the one or the other service, shall be decided by the Executive authority of the state.

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Every person enrolled shall be entitled to receive from the officer possessing the book of enrolment an authenticated transcript from the same, of the entry respecting himself, on payment of 25 cents, and to have the same renewed on the same condition from time to time, when lost or destroyed, which shall exempt him from the duties

of the land militia, & shall be considered otherwise as instead of the certificate of citizenship heretofore given by the Collectors of the Customs, which certificates shall hereafter cease to be given.

Every enrolling officer shall on or immediately after the 1st day of October in every year, make a return of his roll to the Secretary of the Navy of the U. S. according to it's actual state as affected since the last return, by age, discharge, death, removal, new enrolments or otherwise.

The Id. Naval Militia of each port & of the town & Country thereto adjacent to which they belong shall be distributed into sections, each of which sections shall consist of all those individuals born within the limits of the same year of the Christian aera, & shall be distinguished by the name of the year of their birth: and in cases of insurrection, of opposition to the civil authority or of sudden attack, either actual or imminent, in any port, harbour, or town on the tide-waters, or on the coasts or shores in their vicinities, all persons then and there being who make a part of the said militia, whether of the same or any other place, shall be liable to be called on by the President of the U S. or the person invested by him with authority for that purpose, to do duty with artillery, or on board any armed vessels, for the special occasion of quelling the insurrection, enforcing obedience to the civil authority, or resisting the attack as the case may be. Such call shall be made on them by sections, in the numbers which the exigency may require by regular rotation in the numerical order of the years of their birth, and for a term not exceeding months: & non-residents shall always make a part of the section of the respective year of their birth.

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The said Sections when called into service, shall be organized & officered by the state authority, suitably to the service they shall be called to, whether with Artillery or on board any armed vessels, and while engaged in the performance of a tour of duty shall have the pay & rations allowed in the navy of the U S. and be subject to the rules, regulations, & articles provided for the Government of the same.

an act for classing the militia and assigning to each class its particular duties

Be it enacted, &c., That every free, able-bodied white male citizen of the United States of the age of 18 years and under the age of 45, whose principal occupation is not on the high sea or the tide-waters within the United States, shall be of the militia for the land service of the United States.

Enrolement. The persons so to constitute the land militia shall be enrolled by their names and ages and their proper districts, and in books to be kept for that purpose; such enrolement to be made without delay of those now within the description, and from time to time as to others who shall hereafter become so, always noting the date of the enrolement, and placing in a distinct page or part of the book those of every different year of age, from 45 down to 18. In deciding on the ages of the persons to be enrolled, the officer shall make up his judgment from the information of the party himself, and from such other information as he can obtain, and where this is not satisfactory, then from his own inspection.

Classification. The said militia shall be distributed into classes as follows, to wit: the junior class shall be composed of those above 21 and under 26 years of age; the middle class of those above 26 and under 35 years of age; the senior class of those above 35 and under 45 years of age; and those above 18 and under 21 years of age shall compose the minor class.

Their training. The junior and minor classes shall each have their separate captains and other inferior officers, those for the juniors being selected with a view to actual service,

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and shall be strictly trained to the exercises and manœuvres of a soldier, either of artillery, infantry, or cavalry, as may be lawfully designated; for which purpose they shall be mustered and trained one whole day in every month of the year, two of which musters shall be in battalion and the others in companies. The captains of the said two classes, with the general and field officers having command over them, shall form a district court-martial for the rigorous enforcement of the duties of attendance and training. Each person of the said junior class shall be furnished with a good musket, bayonet, and cartridge-box at the public expense, so soon as they can be provided, which, except where he shall be of the cavalry or artillery, he shall be bound to produce in good order at every muster of which he shall be, so long as he shall be under the age of 45 years, after which it shall be his property.

Where, at the passing of this Act, any members of the militia shall be in the possession of such arms provided by his State or Territory, or by himself, the same shall be reviewed and valued by some person appointed on the part of the United States and if found in perfect order and of proper calibre, they shall be paid for by the United States if such be the choice of the party furnishing them, and shall thereafter be in the hands of the holder as the property of the United States, under the same trust and right as if they had been originally furnished him by the United States.

The middle class shall in like manner be formed into companies by themselves, to be commanded by their own captains and other inferior officers; they shall be mustered and trained twice only in the year in companies, and once in battalion. The senior class, in distinct companies also, and under its own captains and other inferior officers, shall be mustered and trained one day in the year only in companies, and one in battalion; and both the middle and senior classes shall be under the jurisdiction of their captains, formed into one and the same court-martial, with the general and field officers having command over them.

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Actual service. The junior class shall be liable to perform all active military service within the United States, or the countries next adjacent in their vicinity by tours of duty not to exceed one year in any two; and in order that the said services may be required of them equally, those of every company battalion shall be divided by lot into ten parts or portions, as nearly equal as may be, each portion to be distinguished by its particular number, from 1 to 10 and to be called into duty in the order of their numbers, such call extending to so many numbers as the exigency may require; and every person so called on may be assigned to the service of the artillery, infantry, cavalry, or of any other description as the competent authority shall direct.

The middle class shall be liable to be called on to do duty within their State only, or in one of the adjoining States; and that by tours not exceeding three months in any year; for which purpose they shall be distributed into portions and numbers, and called on in routine, as is provided in the case of the junior class.

The senior and minor classes shall be liable to be called on to do duty within their own State only, and by tours not exceeding three months in any year; and they shall be separately distributed into portions and numbers, and called on in routine as provided for the other classes.

Exemptions from militia duty shall only extend to the ordinary duties of mustering and training after having entered the middle or senior class. Such exempts shall nevertheless be enrolled in their classes and numbers, and, when called on for actual military service, shall be bound as others are to perform their due tours.

If any person called on to do the actual duties of his class shall refuse or unnecessarily delay to enter on duty, he shall be arrested as a deserter either by the civil or military authority, shall be delivered to the proper military officer, and either punished as a deserter, or compelled to perform his tour of duty; but any person so called on may commute his personal services by tendering as a substitute an able-bodied free white

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man fit for the service in the judgment of the officer who is to command him, and willing to engage therein. And all persons while engaged in the performance of a tour of duty shall have the pay and rations allowed in the army of the United States, and be subject to the rules, regulations, and articles provided for the government of the same.

All provisions in any law of the United States, or of any particular State or Territory, inconsistent with those of this Act, are hereby repealed; and all provisions in the laws of the United States, or of any particular State or Territory, not inconsistent herewith, shall be understood to be left in force, and liable to alteration by their respective enacting authorities.